

REMARKS/ARGUMENTS

Claims 1-47 are pending in the application; the status of the claims is as follows:

Claims 37-47 are withdrawn from consideration.

Claims 24-36 are allowed.

Claims 1, 4-7, 11, 12, 14, and 16-19 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,723,517 to Campo et al ("Campo et al").

Claims 2, 3, and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Campo et al taken together with U.S. Patent No. 2,694,224 to Rhodes ("Rhodes").

Claims 8-10, 13, and 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

To date, no Notice of Draftsperson's Patent Drawing Review has been received. Applicants respectfully request approval of the revised formal drawings filed on April 12, 2002.

Claim Amendments

Claim 14 has been amended to more precisely articulate and distinctly claim the invention. These changes are not necessitated by the prior art, are unrelated to the patentability of the invention over the prior art, and do not introduce any new matter.

Claim 20 has been amended to depend from claim 14 since claim 19 has been cancelled. These changes are not necessitated by the prior art, are unrelated to the patentability of the invention over the prior art, and do not introduce any new matter.

Allowable Subject Matter

The allowance of claims 24-36, by the Examiner, is noted with appreciation.

The objection to claims 8-10, 13 and 20-23 as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, is noted with appreciation.

Claims 8-10, and 13 depend from claim 1. As noted below, Applicants respectfully submit that claim 1 is nonobvious and allowable over the cited references. Because claim 1 is allowable over the cited references, claims 8-10, and 13 are also allowable. Therefore, claims 8-10, and 13 have not been rewritten in independent form.

Claims 20-23 depend from claim 14. As noted below, Applicants respectfully submit that currently amended claim 14 is nonobvious and allowable over the cited references. Because claim 14 is allowable over the cited references, claims 20-23 are also allowable. Therefore, claims 20-23 have not been rewritten in independent form.

Accordingly, it is respectfully requested that the objection to claims 8-10, 13, and 20-23 be reconsidered and withdrawn.

35 U.S.C. § 102(b) Rejection

The rejection of claims 1, 4-7, 11, 12, 14, and 16-19 under 35 U.S.C. § 102(b) as being anticipated by Campo et al, is respectfully traversed based on the following.

The Campo et al patent describes a system for controlling the color of compounded polymer(s). The system 100 includes a compounder for mixing the constituents of the compounded polymer. Upon initial production, a target polymer color is selected and a nominal colorant feed rate for the selected color is set. A sensor 110 measures the color of the mixture at predetermined intervals and a controller 120, responsive to the sensor, estimates adjustments to the colorant necessary to achieve the target color (column 5,

lines 8-17). A colorant additive feeder 130, responsive to the controller, provides the colorant additive to the mixture at rates prescribed by the controller (figure 1; column 2, lines 16-27; column 4, lines 18-32). In response to the controller, the colorant feeder 130 may either increase or reduce the rate of addition of colorant additive (column 5, lines 13-14).

In contrast to the cited reference, claim 1 includes:

a storage device which stores a coloring agent supply amount data corresponding to a supply amount for each of a plurality of brick types, each of said plurality of brick types having a different appearance.

The cited reference does not show or suggest a storage device used to store coloring agent supply amount data corresponding to a supply amount for a plurality of brick types. In Campo, there is no storage or cataloguing of color combinations, color patterns, supply amounts, or supply time periods according to brick type to be produced. Campo only teaches that the system 100 may be initialized with a target polymer product color and a nominal colorant feed rate (column 5, lines 40-43).

No specific colorant supply amount corresponding to a desired color is stored in Campo, only a target color. The output is the sensed and compared to the target color. Differences are used to adjust the colorant supply. Only then is the colorant feed rates set for the desired color. Therefore, Campo does not show or suggest a “coloring supply amount ... corresponding to a brick type.”

To anticipate, a prior art reference must include every limitation of the claim. MPEP §2131. Therefore, the cited reference does not anticipate claim 1. Claims 4-7, 11, and 12 are dependent upon claim 1 and thus include every limitation of claim 1. Therefore, claims 4-7, 11, and 12 are also not anticipated.

Also in contrast to the cited reference, claim 14 includes:

a sensor which senses a condition of at least a portion of said coloring agent supply and outputs a result;
a controller which receives an output of said sensor and determines an operational condition of said coloring agent supply based on said output of said sensor, and controls a supply of a coloring agent into said extrusion container in accordance with a selected brick type.

Thus, the supply of coloring agent is controlled based on sensing the coloring agent supply in accordance with a selected brick type. This is not shown or suggested by Campo. As noted above, Campo selects a target color, senses the color of the output and adjusts the color supply to make the output conform to the target color. No specific color supply is provided based on any criteria, much less by selected brick type. Therefore, claim 14 is not anticipated by the cited reference. Therefore, applicants respectfully submit that claim 14 is allowable. Claims 16-19 are dependent upon claim 14 and thus include every limitation of claim 14. As noted above, claim 19 has been cancelled. Therefore, applicants respectfully submit that claims 16-18 are allowable.

Accordingly, it is respectfully requested that the rejection of claims 1, 4-7, 11, 12, 14, and 16-18 under 35 U.S.C. § 102(b) as being anticipated by Campo et al, be reconsidered and withdrawn.

35 U.S.C. § 103(a) Rejection

The rejection of claims 2, 3, and 15 under 35 U.S.C. § 103(a), as being unpatentable over Campo et al taken together with Rhodes, is respectfully traversed based on the following.

The Rhodes patent shows a machine for mixing or working rubber. The mixing apparatus comprises a pair of threaded members of the Moineau type consisting of a screw member and a cooperating barrel within which the screw rotates (column 10, lines 82-85).

A series of inlet passages allow introduction of liquid or gaseous materials to the rubber batch during mixing (column 7, lines 53-62).

As discussed above, in contrast to the cited references, claim 1 includes:

a storage device which stores a coloring agent supply amount data corresponding to a supply amount for each of a plurality of brick types, each of said plurality of brick types having a different appearance.

As noted above, Campo does not show or suggest this element. In addition, Rhodes does not show or suggest this element. To support a *prima facie* case for obviousness, the combined references must show or suggest every limitation of the claim. MPEP §2143.03. Because neither of the cited references, singularly or in combination, show or suggest a storage device which stores a coloring agent supply amount data corresponding to a supply amount for each of a plurality of brick types, each of said plurality of brick types having a different appearance, the cited references do not support a *prima facie* case for obviousness. Claim 2 is dependent on claim 1 and thus includes every limitation of claim 1. Therefore the cited references do not show or suggest every limitation of claim 2, and thus claim 2 is non-obvious. Claim 3 is dependent upon claim 2 and thus includes every limitation of claim 2. Therefore, the cited references do not show or suggest every limitation of claim 3, and thus claim 3 is also non-obvious.

As discussed above, in contrast to the cited reference, claim 14 includes:

a sensor which senses a condition of at least a portion of said coloring agent supply and outputs a result;

a controller which receives an output of said sensor and determines an operational condition of said coloring agent supply based on said output of said sensor, and controls a supply of a coloring agent into said extrusion container in accordance with a selected brick type.

As noted above, Campo does not show or suggest this element. In addition, Rhodes does not show or suggest this element. Claim 15 is dependent upon claim 14 and thus includes every limitation of claim 14. Because the cited references, singularly or in

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combination, do not show or suggest the quoted element of claim 14, the cited references do not support and *prima facie* case for obviousness and claim 15 is non-obvious.

Accordingly, it is respectfully requested that the rejection of claims 2, 3, and 15 under 35 U.S.C. § 103(a) as being unpatentable over Campo et al taken together with Rhodes, be reconsidered and withdrawn.

CONCLUSION

Wherefore, in view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

This Amendment does not increase the number of independent claims, does not increase the total number of claims, and does not present any multiple dependency claims. Accordingly, no fee based on the number or type of claims is currently due. However, if a fee, other than the issue fee, is due, please charge this fee to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260.

Any fee required by this document other than the issue fee, and not submitted herewith should be charged to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260. Any refund should be credited to the same account.

If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee,

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Respectfully submitted,

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